



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2014-0259; FRL-9935-68-Region 6]

**Clean Air Act Redesignation Substitute for the Houston-Galveston-Brazoria 1-hour Ozone
Nonattainment Area; Texas**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a redesignation substitute demonstration provided by the State of Texas that the Houston-Galveston-Brazoria 1-hour ozone nonattainment area (HGB area) has attained the revoked 1-hour ozone National Ambient Air Quality Standards (NAAQS) due to permanent and enforceable emission reductions, and that it will maintain that NAAQS for ten years from the date of the EPA's approval of this demonstration.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION THE FEDERAL REGISTER]**

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2014-0259. All documents in the docket are listed on the <http://www.regulations.gov>

Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Tracie Donaldson, (214) 665-6633,
Donaldson.tracie@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

The background for today’s action is discussed in detail in our August 18, 2015 proposal (80 FR 49970). In that notice, we proposed to approve the “Redesignation Substitute Report for the Houston-Galveston-Brazoria One-Hour Standard Nonattainment Area” (redesignation substitute report) submitted by TCEQ to EPA on July 22, 2014, that demonstrated attainment with the revoked 1-hour ozone standard. We did not receive any comments regarding our proposal.

II. Final Action

Based on the Clean Air Act's criteria for redesignation to attainment (CAA section 107(d)(3)(E)) and the regulation for a redesignation substitute (40 CFR 51.1105(b)), EPA is finding that Texas has successfully demonstrated it has met the requirements for a redesignation substitute. In this final action we are approving the redesignation substitute for the HGB area based on our evaluation that the demonstration provided by the State of Texas that shows that the HGB area has attained the revoked 1-hour ozone NAAQS due to permanent and enforceable emission reductions, and that it will maintain that NAAQS for ten years from the date of this final action. In addition, this final action is based on the proposal¹ and the accompanying Technical Support Document (TSD).

With this final action, Texas is no longer required to adopt any additional applicable 1-hour ozone NAAQS requirements for the area which have not already been approved into the SIP. Generally, final action would also allow the state to remove or revise the 1-hour ozone NAAQS nonattainment NSR provisions in the SIP and, upon a showing of consistency with the anti-backsliding checks in CAA sections 110(1) and 193 (if applicable), shift 1-hour ozone NAAQS requirements which are contained in the active portion of the SIP to the contingency measures portion of the SIP. We note that because the HGB area was classified as severe nonattainment for the 1997 ozone NAAQS the severe classification NSR requirement would still apply (October 1, 2008, 73 FR 56983).

III. Statutory and Executive Order Reviews

¹Proposal, Redesignation Substitute for Houston 1 hour ozone Standard, (80 FR 49970), August 18, 2015 and normally we would include in our basis for the final action comments and Comment Response Summary, but we received no comments on the cited proposal

Under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves a demonstration provided by the State of Texas and finds that the HGB area is no longer subject to the anti-backsliding obligations for additional measures for the revoked 1-hour ozone NAAQS; and imposes no additional requirements. Accordingly, I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule does not impose any additional enforceable duties, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a demonstration provided by the State of Texas and finds that the HGB area is no longer subject to the anti-backsliding obligations for additional measures for the revoked 1-hour ozone NAAQS; and does not alter the relationship or the distribution of power and

responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

The rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Additionally, this rule does not involve establishment of technical standards, and thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The rulemaking does not affect the level of protection provided to human health or the environment because approving the demonstration provided by Texas and finding that the HGB area is no longer subject to the anti-backsliding obligations for additional measures for the revoked 1-hour ozone NAAQS does not alter the emission reduction measures that are required to be implemented in the HGB area, which was classified as Severe nonattainment for the 1997 8-hour ozone standard. *See* 73 FR 56983, October 1, 2008, and 40 CFR 51.1105. Additionally, the rule is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 30, 2015.

Ron Curry

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS – Texas

2. Section 52.2275 is amended by adding paragraph (j) to read as follows:

§52.2275 Control strategy and regulations: Ozone.

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(j) *Approval of Redesignation Substitute for the Houston-Galveston-Brazoria 1-hour Ozone Nonattainment Area.* EPA has approved the redesignation substitute for the Houston-Galveston-Brazoria 1-hour ozone nonattainment area submitted by the State of Texas on July 22, 2014. The State is no longer being required to adopt any additional applicable 1-hour ozone NAAQS requirements for the area.